

PROB 12C
(NEP 4/2013)

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

FILED
U.S. DISTRICT COURT
DISTRICT OF NEBRASKA
14 SEP 26 PM 4:10
OFFICE OF THE CLERK

Amended Petition for Warrant or Summons for Offender Under Supervision

Offender: John Wayne Lindsey

Docket No. 8:05CR332

Type of Supervision: Supervised Release

Date of This Report: September 26, 2014

Sentencing Judge: The Honorable Lyle E. Strom
Senior U.S. District Judge

Offense of Conviction: Possess with Intent to Distribute Crack Cocaine [21:841(a)(1) and (b)(1)]

Date Sentenced: July 13, 2006

Original Sentence: 110 Months Prison; 5 Years Supervised Release

Amended Sentence Date: June 20, 2008

Amended Sentence: 92 Months Prison; 5 Years Supervised Release

Supervision Term: October 14, 2011 through October 13, 2016

Prepared By:
Rachel Curry
U.S. Probation Technician

Assistant U.S. Attorney:
Thomas J. Kangior

Defense Attorney:
Shannon P. O'Connor

PETITIONING THE COURT

The original Petition was filed on October 21, 2013, filing # 59.

The Amended Petition reflects changes to Allegation #1 to include the sentence imposed by the District Court of Maryland for the charge of Issue False Document. A warrant was issued for the original Petition on October 21, 2013. Consequently, no warrant is requested on this Amended Petition, and it is requested that the Amended Petition be addressed at Mr. Lindsey's initial appearance once he is in federal custody.

John Wayne Lindsey
Amended Petition for Warrant or Summons

September 26, 2014
Page 2 of 4

The undersigned believes the offender has violated the following conditions of supervision:

Allegation No. **Nature of Noncompliance**

- 1 John Wayne Lindsey is in violation of **the Mandatory Condition** which states, "The defendant shall not commit another federal, state, or local crime."

On September 12, 2013, Mr. Lindsey attempted to pass an altered check in the amount of \$9,882.63 at Columbia Bank in Timonium, MD. The check was dated September 6, 2013, and was drawn on the bank account of Princess Ann Paving Corporation. After a standard investigation to verify validity of the check, a bank employee called Princess Ann Paving Corporation and was informed that Mr. Lindsey is not an employee and was never issued a check. The check was real but had been altered by Mr. Lindsey to reflect payment to himself. After the bank employee asked for and made a copy of Mr. Lindsey's Florida I.D., Mr. Lindsey became nervous and exited the bank upon receipt of the fraudulent check. Mr. Lindsey was unsuccessful in his attempt to obtain the money. On September 14, 2013, a warrant was issued and Mr. Lindsey was charged with Forgery in Towson District Court (Dkt# 4C00386082).

On April 8, 2014, Mr. Lindsey was sentenced by the District Court of Maryland (Dkt# 0C00394940) to 3 years in prison, followed by 3 years probation for Issue False Document. He was also ordered to pay \$8,822.67 in restitution.

If the Court finds the offender has violated this condition, which is a grade A or B violation, revocation is mandatory.

- 2 John Wayne Lindsey is in violation of **Standard Condition #2** which states, "The defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month."

Mr. Lindsey failed to report to the United States Probation Office on August 28, 2013, as instructed by his probation officer. According to USPO Matthew Zorn, Mr. Lindsey sent him a text message informing him that his vehicle had broken down and he was trying to get a ride to the office. Several calls to Mr. Lindsey went unanswered around this time. On September 4, 2013, Mr. Lindsey sent USPO Zorn a text message indicating that he and his family were currently homeless and living out of the family vehicle. He further advised that he had obtained enough money to drive his family to his mother-in-law's residence in Brunswick, GA. On September 6, USPO Zorn spoke with Lindsey on the phone about his situation and he agreed to meet with him in the Probation Office in Orlando, FL on September 9, 2013; however, Mr. Lindsey failed to show. On September 11, 2013, Mr. Lindsey sent USPO Zorn a text message stating that he would not be able to get to Orlando to meet with him until September 30. Mr. Lindsey failed to report to the Probation Office on that date.

- 3 John Wayne Lindsey is in violation of **Standard Condition #7** which states, "The defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use,

John Wayne Lindsey
Amended Petition for Warrant or Summons

September 26, 2014
Page 3 of 4

distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician."

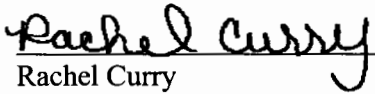
On August 23, 2013, Mr. Lindsey provided a urine sample that tested positive for the presence of marijuana and opiates. At the time of submission, Mr. Lindsey stated that he does not take any prescription medication and that he had not used any illegal substances. The sample was confirmed positive by Alere laboratories on September 20, 2013. Mr. Lindsey previously provided two urine samples on October 23 and December 26, 2012, both of which tested positive for cannabinoids. The court was apprised on January 28, 2013. Subsequently, Mr. Lindsey was placed in outpatient substance abuse treatment at STEPS counseling program, which he completed on June 24, 2013.

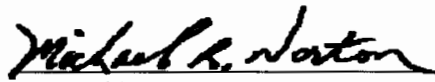
Assistant U.S. Attorney Thomas J. Kangior has been notified of this action.

I declare under penalty of perjury that the forgoing is true and correct.

Respectfully submitted,

Reviewed by:


Rachel Curry
U. S. Probation Technician


Michael R. Norton
Supervising U. S. Probation Officer

John Wayne Lindsey
Amended Petition for Warrant or Summons

September 26, 2014
Page 4 of 4

THE COURT ORDERS THAT:

_____ No action shall be taken.

_____ A Warrant shall be issued for service upon John Wayne Lindsey and a hearing held by the Court to determine whether John Wayne Lindsey has violated the conditions of supervision as set out in the foregoing report and to determine whether the term of supervision should be revoked, continued, modified, and/or extended based on the alleged violations.

_____ The U. S. Probation Officer shall summons John Wayne Lindsey to appear for a hearing in court to determine whether John Wayne Lindsey has violated the conditions of supervision as set out in the foregoing report and to determine whether the term of supervision should be revoked, continued, modified, and/or extended based on the alleged violations.

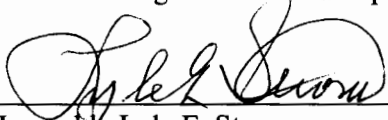
✓
_____ The following action to be taken (specify other action): **The Amended Petition shall be addressed once Mr. Lindsey is in federal custody.**

If a warrant is issued, the petition shall not be sealed and the following action shall be taken (specify other action).

_____ A Writ of Habeas Corpus Ad Prosequendum shall be issued and the defendant brought before the U.S. Court for an Initial Appearance on this matter.

_____ The Federal Public Defender is appointed to represent the above named defendant in this matter. In the event that the Federal Public Defender accepts this appointment, the Federal Public Defender shall forthwith file a written appearance in this matter. In the event the Federal Public Defender should decline the appointment for reasons of conflict or on the basis of the Criminal Justice Act Plan, the Federal Public Defender shall forthwith provide the court with a draft appointment order (CJA Form 20) bearing the name and other identifying information of the CJA panel attorney identified in accordance with the Criminal Justice Act Plan for this district.

The defendant may contact the Office of the Federal Public Defender for the District of Nebraska regarding the alleged violation and possible penalties (402/221-7896).



The Honorable Lyle E. Strom
Senior U.S. District Judge

9/26/14

Date

***** NOTICE TO OFFENDER *****

Pursuant to the Federal Rules of Criminal Procedure 32.1(b)(2) you are entitled to:

- (A) **written notice of the alleged violation(s);**
- (B) **disclosure of the evidence against you;**
- (C) **an opportunity to appear, present evidence, and question adverse witnesses unless the court determines that the interest of justice does not require the witness to appear;**
- (D) **notice of your right to retain counsel or to request that counsel be appointed if you cannot obtain counsel.**